IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc.No.19502-M of 2007

Date of Decision: March 29, 2007

R.Karthikeyan & Anr.

...Petitioners

VERSUS

Paramjit Singh & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE RANJIT SINGH

Present: Mr.V.K.Bali, Advocate,
for the petitioners.

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Paramjit Singh, respondent No.1, filed a complaint against respondents No.2 to 8, which is pending adjudication before Judicial Magistrate Ist Class, Ludhiana. Apart from other witnesses, present petitioners were cited as witnesses in support of the allegations made in the complaint under Sections 420/406/467/468/ 471 read with Section 120-B IPC. When the petitioners were issued summons to appear as witnesses, they moved an application before the trial court for withdrawing the summons so issued to them to appear as witnesses. It was stated in the application that petitioner No.1 is the Head of Zonal Office of State Bank of India and as such is supervising the functioning of 142 branches. Similarly, petitioner No.2 J.K.Thakar was statedly working as Assistant General Manager, Region-1, State Bank of India, Zonal Office,

Ludhiana, who is supervising the functioning of 51 branches. It is accordingly pleaded that they both are summoned as witnesses just to cause them harassment and are otherwise not essential witnesses. The counsel for the petitioners appearing before the trial court submitted that the petitioners should not be summoned as they are very high officers of the Bank and the work of the Bank will suffer in their absence. This application was dismissed by the trial Magistrate, which is now impugned in the present petition.

The counsel for the petitioners contends that the petitioners are not required as witnessed and as such summons issued to them to appear as witnesses need to be withdrawn. Despite repeated queries, the counsel could not point out any provision which could entitle the petitioners to file and maintain such an application before the trial court. The complainant has cited certain witnesses in order to substantiate the allegations made in the complaint. If the petitioners, who are summoned as witnesses, are not witnesses to any fact, they may appear before the court and say so. They, however, cannot seek or otherwise refuse to appear as witnesses only on the ground that they know nothing about the complaint. Even if they have to say so, they would do so while appearing as witnesses before the court. It appears that the petitioners are not wanting to appear before the court considering themselves to be very highly placed persons in status. Saying goes that “Be you even so high, the law is above you.”

Faced with this situation, the counsel submits that the court cannot be a silent spectator and the proceedings cannot always be left entirely in the hands of the parties. In this regard, he has

made reference to the observations of the Hon'ble Supreme Court in the case of ***Zahira Habibullah Sheikh & Anr. Vs. State of Gujarat & Ors., 2006(2) RCR (Criminal) 448*** and to urge that to be an effective instrument in dispensing justice, the Presiding Judge must cease to be a spectator and a mere recording machine. I fail to understand as to how such an observation would be attracted here. The question raised in the petition relates to power to reverse the summons issued to witnesses. The observation in regard to the role of a Presiding Judge would relate to the conduct during the examination of a witness or trial, which would have no relevance to the situation in issue. There obviously cannot be any material before the court at this stage to determine if the witnesses cited by the complainant and those, who are summoned are relevant or not. Even otherwise, the petitioners have not been able to explain as to how such an application could be maintained before the trial court. No legal infirmity otherwise is pointed out, which may call for interference in the impugned order.

The present petition accordingly would stand dismissed.

March 29, 2007 (RANJIT SINGH)
ramesh JUDGE